

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	Case No.: 2:07CR262-WKW
)	
TOMMY LEE MOORE)	

UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the Defendant, **TOMMY LEE MOORE**, by Undersigned Counsel, Donnie Bethel, and pursuant to 18 U.S.C. §§3161 (h)(1)(A) and (h)(8)(B), and respectfully moves this Court to continue the trial of this matter currently set for February 4, 2008. In support of this Motion, Defendant would show the following:

1. Mr. Moore has substantial medical and mental health issues, and is illiterate. Undersigned counsel has had difficulty communicating the nature of the proceedings to Mr. Moore, and Mr. Moore has demonstrated a very limited ability to assist counsel.
2. In order to address these competency concerns, undersigned counsel will have Mr. Moore evaluated by a forensic psychologist.
3. Additionally, undersigned counsel is waiting to receive mental health and educational records which will assist in the evaluation of Mr. Moore.
4. As it is unclear that Mr. Moore is competent to proceed to trial on February 4, 2008, and that additional time is needed to assess Mr. Moore's competence and cognitive functioning, it is in the interest of justice to continue trial until such time a psychological evaluation is completed and a competency determination is made.

5. The United States, through Assistant United States Attorney, Matthew Shephard, has no opposition to this requested continuance.

6. While requests for a continuance are addressed to the sound discretion of the trial court, *United States v. Darby*, 744 F.2d 1508, 1521 (11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert. denied*, 471 U.S. 1100 (1985), Undersigned Counsel feels that, in this case, the ends of justice will be served by allowing the defense time to complete its pretrial investigation and to obtain a determination of Mr. Moore's mental health.

WHEREFORE, Mr. Moore respectfully requests that this Motion be granted and that the trial in this matter be continued from the February 4, 2008, trial docket.

Respectfully submitted,

s/ Donnie W. Bethel
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CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Matthew W. Shepherd, Assistant U. S. Attorney.

Respectfully submitted,

s/ Donnie W. Bethel
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